

September 10, 1996

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON

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CORRECTED

COMBINED REPORT AND RECOMMENDATION TO
THE METROPOLITAN KING COUNTY COUNCIL:

- A. PROPOSED PLAT
- B. REQUESTED ZONE RECLASSIFICATION

SUBJECT: Department of Development and Environmental Services File Nos. **L95P0019 & L95RZ003**
Proposed Ordinance Nos. **96-584 & 96-645**

ANGELIA HEIGHTS
Preliminary Plat Application
Zone Reclassification Request

Location: Generally between 130th Avenue Northeast (if extended) and 132nd Avenue Northeast, and between Northeast 145th Place and Northeast 146th Street

Owner/Developer: Craig Shriner and Don Deasy
7230 Northeast 131st Place
Kirkland, Washington 98033

Engineer: Richard Deccio, American Engineering, Inc.
4032 - 148th Avenue Northeast
Redmond, Washington 98052

PRELIMINARY MATTERS:

Application submitted: September 28, 1995
Department Preliminary Report issued: July 26, 1996

EXAMINER PROCEEDINGS:

Hearing Opened: 9:15 a.m., August 6, 1996
Hearing Adjourned: 1:10 p.m., August 6, 1996
Hearing Administratively Continued
Hearing Closed: 4:00 p.m., September 4, 1996

Participants at the proceedings and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the Office of the King County Hearing Examiner.

SUMMARY OF RECOMMENDATIONS:

Division's Preliminary: A. Approve plat application, subject to conditions
B. Deny requested zone reclassification

Division's Final: A. Approve plat application, subject to conditions
B. Deny requested zone reclassification.

Examiner: A. Approve plat application, subject to conditions
B. Approve requested zone reclassification.

ISSUE ADDRESSED:

- Changes in circumstances

FINDINGS, CONCLUSIONS AND RECOMMENDATION:

FINDINGS:

1. General:
Owner/Developer: Craig Shriner and Don Deasy
7230 Northeast 131st Place
Kirkland, WA 98033
Engineer: American Engineering Corporation
Richard Deccio
4032 - 148th Avenue Northeast
Redmond, WA 98052
Phone: (206) 881-7430
STR: 16-26-5
Location: Generally between 130th Avenue Northeast (if extended) and 132nd Avenue Northeast, and Northeast 145th Place and Northeast 146th Street
Existing Zoning: R-4-P (residential - 4 dwelling units per acre)
Proposed Zoning: R-6-P (residential - 6 dwelling units per acre)
Acreage: 0.99 (43,096 square feet)
Number of Lots: 5
Density: 5.05 dwelling units per acre
Lot Sizes: Ranges from 7,214 to 9,930 square feet
Proposed Use: Detached single-family residences
Sewer Disposal: Woodinville Water & Sewer District
Water Supply: Woodinville Water & Sewer District
Fire District: Fire District #37
School District: Northshore School District
2. Craig Shriner and Don Deasy seek Metropolitan King County Council approval of two proposed actions:
 - A. Subdivision of the subject property into 5 single family residential building lots, with lot sizes ranging from 7,214 to 9,930 square feet. The proposed subdivision density is 5.05 dwelling units per acre, within the range required by the R-6 classification.

A copy of the proposed subdivision plan is attached to the August 6, 1996 Preliminary Report to the Hearing Examiner (Exhibit No. 3) issued by the Department of Development and Environmental Services ("DDES" or the "Department"). In addition, the Applicants' preliminary plat drawing is contained in the hearing record as Exhibit No. 9.
 - B. Reclassification of the subject property, comprising 0.99 acres (43,096 square feet), from R-4-P (residential; 4 dwelling units/acre; property specific development standards; site plan approval required) to R-6-P (residential; 6 dwelling units/acre; site plan approval required).
3. An environmental checklist is not required. Having considered the development proposal and pertinent environmental regulations and documents, the Department concluded that the proposal would not cause probable significant adverse impacts on the environment. On June 11, 1996 the Department issued its threshold Determination of Non-Significance ("DNS"). No person or agency appealed that determination.
4. These are the Department's recommendations:
 - A. Grant preliminary approval to the proposed subdivision subject to 11 conditions of final plat approval. Recommended condition No. 3 would limit the plat density to the R-4 classification standard, thereby limiting the plat to no more than 4 lots. As indicated above, the Applicants seek approval of 5 lots. The Applicants reject the Department's recommendation to deny the reclassification request. Facts which are relevant to this issue are presented in the findings below. The Applicants accept the Department's preliminary plat recommendation, except that the Applicants contest recommended condition No. 3, which would require the Applicants to reduce the proposed density from 5 lots (permitted by the R-6 classification) to 4 lots (permitted by the R-4 classification).
 - B. Deny the requested reclassification.

5. The central issue of this review--whether to authorize reclassification to the R-6 zone--depends upon interpretation of KCC 20.24.190 and the application of relevant facts to that code provision. This is the relevant portion:

KCC 20.24.190 Additional Examiner Findings - Reclassifications. . . . When the Examiner issues a recommendation regarding an application for a reclassification of property . . . , the recommendation shall include additional findings which support the conclusion that at least one of the following circumstances applies:

- A. . . .
- B. . . .
- C. . . .

D. The Applicants have demonstrated with substantial evidence that:

- 1. Since the last previous area zoning . . . of the subject property, authorized public improvements, permitted private development or other conditions or circumstances affecting the subject property have undergone substantial and material change not anticipated or contemplated in the community plan or area zoning;
- 2. The impacts from the changed conditions or circumstances affect the subject property in a manner and to a degree different from other properties in the vicinity such that area zoning . . . is not appropriate; and
- 3. The requested reclassification . . . is required in the public interest.

6. Regarding the reclassification issue, the following findings are relevant:

- A. The Woodinville incorporation and the 1994 King County Comprehensive Plan are substantial and material changes which were not anticipated by the 1993 Northshore Community Plan and area zoning within the meaning of KCC 20.24.190.D.1. With DDES approval, the Applicants installed infrastructure sized to accommodate RS 7200 development (equivalent to R-6 zoning with respect to authorized density). These infrastructure improvements, providing for sewer and water service, were installed to serve that higher density development, a factor clearly not considered in the development and approval of the 1993 NSCP.
- B. The construction of the RS 7200 density plat of Arbor Grove on the opposite side of 136th Avenue Northeast is a changed circumstance not anticipated by the 1993 NSCP.
- C. All surrounding properties are developed or divided for development. Thus, within the immediate vicinity, the subject property is the only property affected by these material changes in circumstances. Vacant properties bear the full brunt of newly adopted regulations, policies and plans, whereas developed properties already enjoy a vested right of use.
- D. The requested reclassification will further the following Comprehensive Plan policies: U-501, which encourages, among other things, small lot single-family development; U-502, which encourages an average zoning density of at least 7 to 8 homes per acre in the urban growth area; and U-507, which encourages "quality infill development."
- E. As an additional measure of the public interest, the Applicants cite the 1995 King County Annual Growth Report, which indicates a sharp drop in single-family plats and home construction in the Northshore area in recent years. Thus, the Applicants argue, the subject reclassification directly addresses the public interest in providing more opportunity for single-family housing in the Northshore area.

7. Except as noted above, the facts and analysis contained in the Land Use Services Division Preliminary Report dated August 6, 1996 are correct and are incorporated here by reference. A copy of the Land Use Services Division report will be attached to those copies of the examiner's report which are submitted to the King County Council.

8. Any portion of any of the following conclusions which may be construed as a finding is incorporated here by reference.

CONCLUSIONS:

1. The facts of this matter establish that substantial public and private improvements have been made which affect the subject vacant property in a manner which differs from neighboring developed properties. The City of Woodinville's incorporation has unexpectedly created a small pocket of larger zoning under King County jurisdiction. The public interest embodied by 1994 KCCP encourages small lot single-family infill development, exactly as is proposed here. These facts apply uniquely to the subject property because it is the only vacant and undeveloped parcel within what has become a small pocket of R-4 zoning left over from the Woodinville incorporation. Consequently the requested reclassification satisfies the criteria of KCC 20.24.190.D. It should be approved. The City of Woodinville agrees the requested reclassification is in the public interest.
2. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, Northshore Community Plan, Subdivision and Zoning Codes, and other official land use controls and policies of King County.
3. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces, for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary wastes, parks and recreations, playgrounds, schools and school grounds, and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
4. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of this development upon the environment.
5. The dedications of land or easements within and adjacent to the proposed plat, as recommended by the conditions for final plat approval or as shown on the proposed preliminary plat submitted by the applicants, are reasonably necessary as a direct result of the development of this proposed plat.

RECOMMENDATION:

- A. GRANT PRELIMINARY APPROVAL to the proposed plat of Angelia Heights, DDES file No. L95P0019, as illustrated by the Applicants' preliminary plat drawing received by DDES on September 28, 1995 (Exhibit No. 9), SUBJECT to the 11 conditions of final plat approval stated on pages 12 and 13 of the DDES Preliminary Report to the Hearing Examiner dated August 6, 1996 (Exhibit No. 3), EXCEPT for the following change:

RECOMMENDED CONDITION NO. 3: The final plat shall comply with the base density, minimum density and minimum dimensional requirements of the R-6 zone classification. Any minor revisions to the plat may be approved by the Land Use Services Division upon demonstration that such changes do not conflict with applicable law, policy or regulation, and that such changes do not result in unmitigated adverse impacts.

- B. APPROVE reclassification of the subject property **from R-4-P to R-6-P**. The "P-Suffix" site plan approval standards applicable to this property shall be only those same standards which are already required by the Northshore Community Plan (1993 NSCP).

ORDERED this 10th day of September, 1996.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 10th day of September, 1996, to the following parties and interested persons:

Michael Cain	King Conservation District
Robert Custer	Richard Deccio
Terry Jensen	John L. Scott Land Dept.
Kirkland Planning &	Don Deasy
Community Development Dept.	Harv Morgan
Allan Wallace	Craig Shriner
Lanny Henoeh, DDES/Land Use Services Division	
Tom Koney, Metropolitan King County Council	
Aileen McManus, DDES/Building Services	
Michaelene Manion, DDES/Land Use Services Division	

Mark Mitchell, DDES/Land Use Services Division
 Lisa Pringle, DDES/Land Use Services Division
 Steve Townsend, DDES/Land Use Services Division
 Bruce Whittaker, DDES/Land Use Services Division
 Paul Wozniak, DDES/Land Use Services Division

NOTICE OF RIGHT TO APPEAL
 AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before September 24, 1996. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before October 1, 1996. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council approving or adopting a recommendation of the Examiner shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the date on which the Council passes an ordinance acting on this matter.

MINUTES OF THE AUGUST 6, 1996 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NOS. L95P0019 AND L95RZ003 - ANGELIA HEIGHTS:
 R. S. Titus was the Hearing Examiner for this matter. Participating in the hearing were Alan Wallace, Craig Shriner, Richard Deccio, Harv Morgan, Lanny Henoch/DDES-LUSD-Site Plan Review, and Bruce Whittaker/DDES-LUSD-Engineering Review Section.

The following exhibits were offered and entered into the record:

Exhibit No. 1	Department of Development and Environmental Services File No. L95RZ003
Exhibit No. 2	Department of Development and Environmental Services File No. L95P0019
Exhibit No. 3	Department of Development and Environmental Services Preliminary Report to the King County Hearing Examiner for the August 6, 1996 public hearing
Exhibit No. 4	Subdivision application (L95P0019), received September 28, 1995
Exhibit No. 5	Zone reclassification application (L95RZ003), received September 28, 1995
Exhibit No. 6	February 13, 1996 letter from Richard Deccio, American Engineering Corp., indicating removal of "P" suffix from the existing zoning is not proposed as part of the reclassification request
Exhibit No. 7	SEPA Determination of Nonsignificance, issued June 11, 1996
Exhibit No. 8	Affidavit of Posting, received July 3, 1996, indicating posting of property occurred on July 1, 1996
Exhibit No. 9	Preliminary plat map (2 sheets), received September 28, 1995
Exhibit No. 10	Land use map - Kroll maps 414E, 507W, 419E, and 510W
Exhibit No. 11	Assessor map - SE 1/4 of 16-26-05
Exhibit No. 12	Environmental Checklist, received September 28, 1995
Exhibit No. 13	Significant Tree Retention Plan, dated February 7, 1995, prepared by American Engineering Corp.
Exhibit No. 14	Copy of short plat S91S0146
Exhibit No. 15	Letter (fax) from City of Woodinville to Examiner, dated July 30, 1996
Exhibit No. 16	Highlighted Northshore Community Plan Map dated June 1981
Exhibit No. 17	Northshore Community Plan Map (Proposed Update) dated 1991
Exhibit No. 18	By reference: Page 11 from 1994 King County Comprehensive Plan Land Use Map
Exhibit No. 19	Adopted Northshore Community Plan and Area Zoning Update Map (1993)

RST:var
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